

SECOND REGULAR SESSION

SENATE BILL NO. 702

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS CROWELL AND MAYER.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3100S.01I

AN ACT

To amend chapter 33, RSMo, by adding thereto one new section relating to public funds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 33, RSMo, is amended by adding thereto one new
2 section, to be known as section 33.900, to read as follows:

33.900. 1. As used in this section, the following terms shall mean:

2 (1) "Abortion services", include performing, inducing or assisting
3 with abortions as defined in section 188.015, RSMo, or encouraging
4 patients to have abortions, or referring patients for abortions, not
5 necessary to save the life of the mother, or development of drugs,
6 chemicals or devices intended to be used to induce an abortion;

7 (2) "Health and social services program", any activity, program
8 or the furnishing of services for the purpose of preventing, supporting,
9 alleviating, ameliorating, treating, curing or healing any human
10 condition, illness, injury or disability, or to safeguard the health of
11 people and ensure the prevention of any type of disease, infection or
12 injury, the promotion of specific lifestyle, hygiene and sanitary
13 conditions, or to assist persons to provide for themselves and others
14 and to assist those experiencing any social or physical condition or
15 disadvantage, and including the furnishing of any sort of physical,
16 health, medical or dental assessment, care, counseling, education or
17 treatment, whether to individuals or groups of individuals; except that,
18 health and social services programs shall not include a research
19 project;

20 (3) "Independent affiliate", an entity that provides abortion
21 services that is affiliated with an entity that does not provide abortion

22 services, is separately incorporated from the entity that does not
23 provide abortion services, does not receive or share a direct or indirect
24 economic or marketing benefit from such affiliation with the entity that
25 does not provide abortion services, and does not share any of the
26 following with the entity that does not provide abortion services,
27 regardless of whether reimbursement is made for any expenditures
28 associated with sharing the following:

29 (a) The same name or similar names;

30 (b) Medical or nonmedical facilities, including but not limited to
31 business offices, laboratories, treatment, consultation, examination and
32 waiting rooms;

33 (c) Expenses;

34 (d) Employee wages or salaries; or

35 (e) Equipment or supplies, including but not limited to
36 computers, telephone systems, telecommunications equipment, and
37 office and medical supplies;

38 (4) "Nondirective pregnancy counseling", counseling related to
39 pregnancy that does not include abortion services, but may include
40 providing patients with information regarding providers of health care
41 and social service programs, or otherwise providing information
42 required by federal law;

43 (5) "Public funds", shall include:

44 (a) Any funds received or controlled by the state of Missouri or
45 any official, department, division, agency or political subdivision
46 thereof, including but not limited to funds derived from federal, state
47 or local taxes, gifts or grants from any source, settlements of any claims
48 or causes of action, public or private, bond proceeds, federal grants or
49 payments, or intergovernmental transfers;

50 (b) Any funds received or controlled by any official, department,
51 division or agency of state government or political subdivision thereof,
52 or granted or distributed to any other person or entity, pursuant to
53 appropriation by the general assembly or the governing body of any
54 political subdivision of this state.

55 2. Public funds shall not be expended, paid or granted to or on
56 behalf of an existing or proposed health and social services program to
57 directly or indirectly subsidize abortion services. To ensure that
58 support is not lent in any manner to abortion services, and to ensure

59 that an entity that provides abortion services does not receive a direct
60 or indirect economic or marketing benefit from public funds expended
61 in connection with any health and social services program:

62 (1) Public funds shall not be expended, paid or granted in
63 connection with any health and social services program to an entity
64 that provides abortion services;

65 (2) An entity that does not provide abortion services may receive
66 public funds in connection with any health and social services program
67 if affiliated with an entity that provides abortion services, only if the
68 affiliated entity that provides abortion services is an independent
69 affiliate;

70 (3) An entity that provides counseling to pregnant persons in
71 connection with a health and social services program receiving public
72 funds shall only provide nondirective pregnancy counseling unless
73 otherwise required pursuant to subsection 3 of this section;

74 (4) An entity that receives public funds in connection with any
75 health and social services program shall not display or distribute
76 marketing materials promoting abortion services;

77 (5) An entity that receives public funds in connection with any
78 health and social services program shall maintain financial records
79 that demonstrate strict compliance with this subsection;

80 (6) An independent audit of any entity that receives public funds
81 in connection with any health and social services program shall be
82 conducted at least once every three years, or sooner if required by any
83 other provision of law or if directed by the governmental entity
84 expending, paying or granting the public funds, to ensure compliance
85 with this subsection. If the recipient of the public funds is an affiliate
86 of an entity that provides abortion services, an independent audit to
87 ensure compliance with this subsection shall be conducted at least
88 annually. The audit shall be conducted by:

89 (a) The state auditor if allowed by law; or

90 (b) An independent auditing firm retained by the governmental
91 entity expending, paying or granting the public funds; or

92 (c) An independent auditing firm approved by the governmental
93 entity expending, paying or granting the public funds and retained by
94 the entity receiving public funds.

95 3. Notwithstanding the provisions of subsection 2 of this section,

96 any entity:

97 (1) Eligible to receive reimbursements pursuant to Title XIX of
98 the federal Social Security Act (42 U.S.C. Section 1396, et seq.) may be
99 reimbursed for services it has performed, for which the payment to
100 such entity is otherwise prohibited pursuant to subsection 2 of this
101 section, if reimbursement for such services is required pursuant to the
102 federal act and the refusal to reimburse for such required services will
103 result in the withholding of federal Medicaid funds to the state of
104 Missouri. No state Medicaid plan shall be adopted by the state or
105 submitted to the federal government that includes services that violate
106 the provisions of subsection 2 of this section and are not mandated for
107 state Medicaid plans by the federal Medicaid law, Title XIX of the
108 Social Security Act, as amended;

109 (2) Receiving federal funds pursuant to Title X of the federal
110 Public Health Services Act may perform services which are required
111 pursuant to the federal act, but otherwise prohibited pursuant to
112 subsection 2 of this section if:

113 (a) Specifically directed by the United States Secretary of Health
114 and Human Services to perform such services by written order directed
115 to the organization; and

116 (b) Such order is final and no longer subject to appeal; and

117 (c) The refusal to perform such required services will result in
118 the withholding of federal funds to said organization.

119 Federal statutory or regulatory provisions or guidelines of general
120 application shall not constitute such written order as described herein.

121 4. Restrictions of specific applicability contained in the statutory
122 laws of this state regarding the use of public funds for abortion
123 services shall take precedence over the restrictions of general
124 applicability contained in subsection 2 of this section and sections
125 188.200 to 188.220, RSMo.

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